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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. MARQUES ALLEN MASON, Defendant and Appellant.	A106146 (Solano County Super. Ct. Nos. FCR194551, FCR210552)

Appellant Marques Allen Mason pled no contest in case No. FCR194551 to two counts of receiving stolen property (counts 3 & 4; Pen. Code, § 496, subd. (a)).[1] He was granted probation, which he violated twice, and on February 24, 2004, his probation having been revoked, he was sentenced on count 3 to the midterm of two years, with a consecutive eight months on count 4 (one-third the midterm).

Previously, in December 2003, a jury found appellant guilty of residential burglary (§§ 459, 462, subd. (a)) in case No. FCR210552. On March 23, 2004, appellant was sentenced on the burglary to four years in state prison as the principal term, and he was resentenced on the receiving stolen property counts to consecutive

[1] Section references are to the Penal Code.

eight-month sentences as subordinate terms. The aggregate term was five years and four months.

On this appeal, appellant contends that his consecutive sentencing violates section 654 and also *Blakely v. Washington* (2004) 542 U.S. ___ [124 S.Ct. 2531] (*Blakely)*. We reject these contentions and affirm.

DISCUSSION

1. *There was no section 654 violation.*

Section 654 prohibits punishment for more than one conviction where the convictions arise out of an indivisible transaction and have a single intent and objective. (*Neal v. State of California* (1960) 55 Cal.2d 11, 19; *People v. Monarrez* (1998) 66 Cal.App.4th 710, 713.) "But multiple crimes are not one transaction where the defendant had a chance to reflect between offenses and each offense created a new risk of harm." (*People v. Felix* (2001) 92 Cal.App.4th 905, 915.) "[S]eparate sentencing is permitted for offenses that are divisible in time . . . ." (*People v. Kwok* (1998) 63 Cal.App.4th 1236, 1254, italics omitted.)

Here, appellant pled no contest to two counts of receiving stolen property. Count 3 charged that the offense took place "[o]n or about September 29, 2001" and that the stolen property was jewelry; count 4 charged that the offense took place "[o]n or about October 03, 2001" and that the stolen property included a handgun, bullets, a wallet and contents, credit cards, identification cards, a Costco card and business checks . . . ." The trial judge imposing the original sentence found that the offenses "took place at a different time, a different offense," and the trial judge who resentenced appellant ratified this finding. In short, the offenses were charged as separate crimes, the crimes were divisible in time, appellant by his plea admitted the crimes occurred at different times, and there is nothing in the record to suggest that the crimes were part of an indivisible transaction. Appellant has failed to establish a violation of section 654.

2. *There was no Blakely violation.*

Appellant also contends that the imposition of consecutive sentences violated *Blakely*.[2]

Suffice it to say, other appellate courts have uniformly held that *Blakely* does not apply to consecutive sentencing decisions, although the issue is before our Supreme Court in *People v. Black, supra* (see fn. 2, *ante*).

In any event, even if it were determined that *Blakely* applied to consecutive sentencing decisions, *Blakely* would provide appellant no basis for relief. As *Blakely* recognizes, an admission by a defendant of a fact that increases the penalty for a crime beyond the statutory maximum is sufficient and comparable to a factual finding by a jury. Here, by his plea, appellant admitted that the crimes were separate and took place at different times. This was a proper basis for imposing consecutive sentences (Cal. Rules of Court, rule 4.425(a)(3)) and was the basis for such sentencing in this case. There was, accordingly, no violation of *Blakely* because the facts supporting consecutive sentencing were admitted by appellant. (*Blakely, supra,* 542 U.S. at p. ___ [124 S.Ct. at p. 2536].)

Judgment affirmed.

Reardon, J.

We concur:

Kay, P.J.

Sepulveda, J.

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[2] For purposes of this case, we will assume that *Blakely* applies to the California sentencing scheme. Ultimately, our California Supreme Court will decide that issue. (See *People v. Towne*, review granted July 14, 2004, S125677; *People v. Black*, review granted July 28, 2004, S126182.)